

ENTERED

May 20, 2025

Nathan Ochsner, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SINA GHEIBI

§

VS

§

§

CIVIL ACTION NO. H-25-1908

§

KRISTI NOEM

§

ORDER OF DISMISSAL

Pending before the Court is the Motion for Temporary Restraining Order (Doc. No. 2) and Motion for Return of Sina Gheibi to the United States (Doc. No. 5). Both of these motions, and a petition for habeas corpus on behalf of Petitioner Sina Gheibi, were filed on April 28, 2025. By admission in his own pleadings, Petitioner was deported on April 25, 2025, three days before his counsel filed his petition and motions. *See* Doc. No. 5 at 1. Since Petitioner Sina Gheibi had already been removed from the United States at the time he filed his petition, he was not “in custody” in this district within the meaning of 28 U.S.C. § 2241. *Merlan v. Holder*, 667 F.3d 538, 539 (5th Cir. 2011); *see also Spencer v. Kemna*, 523 U.S. 1, 7 (1998) (explaining that the “in custody” determination is made at the time the petition is filed). The Court also notes for future reference that the motion was filed in the Houston Division when the Petitioner was being held in the Corpus Christi Division. Thus, this matter should have been filed in the Corpus Christi Division. It is hereby

ORDERED that the Motion for Temporary Restraining Order (Doc. No. 2) and the Motion for Return of Sina Gheibi to the United States (Doc. No. 5) are DENIED as moot; and it is

ORDERED that the petition is DISMISSED without prejudice.

SIGNED on this 25th day of May 2025.

ANDREW S. HANEN
UNITED STATES DISTRICT JUDGE